Street, J.] McIntyre *v.* London and Western Trusts Co. [Feb. 23.

Executors and administrators—Administration—Cash on deposit—Rate of interest—Bequest of use of chattels for limited period—Sale of chattels—Interest on proceeds—Land contracted to be sold by testator—State of nature—Right to dower—Payment to widow for release—Compensation of executors—Infants—Contingent legacies—Interest as maintenance.

Executors found a sum of money belonging to the testator in the hands of a loan company upon savings bank account, and allowed it to remain there at 3½ per cent. per annum for more than two years after obtaining probate of the will. In January, 1902, they closed the savings bank account, and invested the money at 4 per cent. in a debenture, but 20 days later, fearing that they would be called on to distribute the money, they took over the debenture themselves as from its date, and put the money into a chartered bank at 3 per cent. The trusts of the will, so far as the property not specifically devised was concerned, were to provide for annuities and to divide the surplus amongst the residuary legatees.

Held, that the executors would not have been justified in making long or permanent investments of the money which came to their hands; in strictness they should have deposited it from the beginning in a chartered bank, where it would have earned only 3 per cent.; and, in accounting, they should not be charged with more interest than they actually received, that is, 3½ per cent. while the money was on deposit with the loan company, 4 per cent. for 20 days during which it was invested in a debenture, and 3 per cent. thereafter until it was distributed: *Inglis* v. *Beaty*, 2 A.R. 453, and *Spratt* v. *Wilson*. 19 O.R. 28, distinguished.

A part of the will was as follows: "I leave my stock and implements to my son H.; he to have the use of them for ten years, at the end of that time to replace them." The stock and implements were sold by the executors at H.'s request, and the proceeds were paid to him.

Held, that the bequest was merely of the use of the chattels for ten years, with the right of possession vested in H. for that period only; but the executors, with H.'s consent, having done what they should have done at the end of the period, all that he could have was the interest for ten years upon the proceeds of the sale; and therefore H. should repay the proceeds, for which the executors were bound to account.

The testator was the owner in fee at the time of his death of a timbered lot containing 100 acres, from 15 or 20 acres of which he had taken the timber; a part of the cleared land had been prepared for cultivation, and seeds planted, but, owing to the nature of the soil, with little or no result. The testator had contracted to sell the whole lot for $2,000, and after his death the purchaser called on the executors to receive the balance of the purchase money and to make title. The widow claimed her dower, and her claim was compromised by the executors at $390, which they paid her,